

# EXHIBIT 2

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

- - -

Z.H., by and through KEVIN Case No. 1:14-cv-176  
HUTCHENS and CHRISTIN Cleveland, Ohio  
HUTCHENS, individually, and  
as parents and next of  
friends of Z.H.,

Plaintiffs,

vs.

FRIDAY, JANUARY 20, 2017

**VOLUME 5**

ABBOTT LABORATORIES INC. and  
ABBVIE INC.,

**Pages 746 - 987**

Defendants.

- - -

TRANSCRIPT OF **JURY TRIAL** PROCEEDINGS  
BEFORE THE HONORABLE CHRISTOPHER A. BOYKO  
UNITED STATES DISTRICT JUDGE

Official Court Reporters:

Sarah Nageotte, RDR, CRR, CRC  
Susan Trischan, RMR, CRR, FCRR  
United States District Court  
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Proceedings recorded by mechanical stenography,  
transcript produced by computer-aided transcription.

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1 the range of risk, the Court strikes all references in  
2 Dr. Foldvary-Schaefer's testimony regarding up to 20  
3 percent risk of birth defects and Dr. Blume may not opine  
4 that the label should have included any range of  
5 percentages.

6 In other words, Blume cannot testify that  
7 the 2002 Depakote label should have included a range of  
8 10 to 20 percent because it's not in her report or  
9 deposition. "Helpful, but not necessary," quotes, is  
10 inconsistent with a reasonable degree of expert  
11 certainty.

12 This does not preclude testimony regarding  
13 percentages in studies.

14 Okay. The Court will allow opinion  
15 testimony that the label should have included a warning  
16 consistent with the opinions in her report.

17 Upon consideration of Dr.  
18 Foldvary-Schaefer's testimony, the Court will not change  
19 its decision to allow testimony by Dr. Blume regarding  
20 the anti-warning and last resort warning on the 2002  
21 Depakote label.

22 And in light of plaintiffs' representation  
23 that it will not elicit testimony from Dr. Blume that a  
24 label should have included a warning on the risk of fetal  
25 valproate syndrome, defendants' fourth objection is moot.

1 I'm struggling with an issue, specifically  
2 that the FDA did not permit or allow Abbott to put on the  
3 label anything about cognitive developmental delay, yet  
4 plaintiffs want it as part of damages.

17:41:31 5 I want to hear from both sides before I  
6 make a decision, especially since the witnesses will be  
7 testifying --

8 MR. BALSER: Thank you, Your Honor.

9 THE COURT: -- about that. Okay.

17:41:40 10 MR. STRAIN: That was the other thing I  
11 wanted to raise, request that.

12 THE COURT: Of course. Have a good  
13 weekend, everyone.

14 (Proceedings recessed for the day at 5:41 p.m.)

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19 **C E R T I F I C A T E**

20 We certify that the foregoing is a correct  
21 transcript of the record of proceedings in the  
above-entitled matter prepared from the stenotype notes.

22 /s/ Sarah Nageotte  
SARAH NAGEOTTE, RDR, CRR, CRC

23 /s/ Susan Trischan 1/20/2017  
24 SUSAN TRISCHAN, RMR, CRR, FCRR DATE  
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